

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

913 CRIMINAL APPLICATION NO. 4389 OF 2016

KARAN @ KANIFNATH RAGHUNATH EDKE

VERSUS

THE STATE OF MAHARASHTRA

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Mr. N.V.Gaware, Advocate for Applicant.

Mr. S.B.Yawalkar, A.P.P. for Resp. – State.

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CORAM : A.M.BADAR, J.

DATE : 31st AUGUST, 2016

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PER COURT :

1. The applicant/accused in Crime No. 129/2016 registered at Newasa police station, Tq. Newasa, Dist. Ahmednagar for the offences punishable U/ss 147,148,149,323,504,506 of the Indian Penal Code and u/s 4/25 of the Indian Arms Act at the instance of Sagar Rajaram Deshmukh by this application is praying for pre-arrest bail.

2. Heard learned counsel for the applicant. He argued that there was free fight between 2 groups in the village and the averments against the present applicant are assault to the informant by sword on his neck. Learned

counsel submitted that because of enmity between the rival parties, there is embellishment and over-implication.

3. Learned A.P.P. opposed the application by contending that the crime in question is serious and sword is attributed to the applicant with averments that blow was on the neck.

4. Perused papers of investigation including the F.I.R. lodged by Sagar Rajaram Deshmukh.

5. On 22/05/2016 work of expansion of water canal by Pokland machine was going-on. Prosecuting party was doing that work. At that time, according to the prosecution case, present applicant/accused came and quarreled with the members of the prosecuting party.

6. Thereafter, according to the prosecution case, on 23/05/2016, applicant came to the spot accompanied with his associates and assaulted the members of prosecuting party including the informant. The informant is stated to have been assaulted by means of sword by the present applicant and that blow is reported to be landed on the neck of the informant.

7. Though the sword is alleged to have been used in the crime in question, the very first medical certificate of the informant goes to show that he suffered simple injury of size 4 x 1 cm. Thereafter, the applicant was reportedly admitted to the City Care hospital, Ahmednagar, which issued injury

certificate stating that the injury on the neck is grievous. Record of investigation does not contain any material to show the period of hospitalization of the informant. Learned counsel for the applicant, on instructions, makes statement that the informant is already discharged from the hospital.

8. Considering the fact that the Medical Officer from the Primary Health Centre has reported the injury to be simple, the question would be whether the applicant had intended to commit murder of the informant or whether he intended to cause hurt by means of dangerous weapon. Considering the fact that the Medical Officer of the hospital run by the State Govt. has reported the injury to be simple, *prima facie* no intention can be attributed to the applicant for making out the offence punishable u/s 307 of the Indian Penal Code. In this view of the matter, liberty of the present applicant gets precedent over the interest of the Investigating Officer. Hence, the following order.

(i) The application is allowed.

(ii) In the event of his arrest in Crime No. 129/2016 registered at Newasa police station, Tq. Newasa, Dist. Ahmednagar for the offences punishable U/ss 147,148,149,323,504,506 of the Indian Penal Code and u/s 4/25 of the Indian Arms Act, applicant Karan @ Kanifnath Raghunath Edke be released on bail on executing P.R. Bond of ₹ 15,000/- [Rupees Fifteen Thousand] and on furnishing surety in the like amount.

(iii) As a condition of this Order, the applicant shall not extend any threat, inducement or promise to the persons acquainted with the facts of the accusation so as to dissuade them from disclosing the same either to the police or the Court.

(iv) The applicant shall not tamper the evidence of the prosecution.

(v) The applicant shall attend concerned police station on 11/09/2016 in between 11.00 a.m. and 01.00 p.m. and he should co-operate the Investigating Officer in the investigation of the crime in question. In addition, he should attend concerned police station as and when reasonably asked by the Investigating Officer.

[A.M.BADAR, J.]